

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

Thomas J. White,

Civ. No. 06-0642 (PAM/RLE)

Petitioner,

v.

**MEMORANDUM AND ORDER**

R.L. Morrison, Warden,

Respondent.

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This matter is before the Court on a Petition for Writ of Habeas Corpus and Petitioner's letter dated April 11, 2006. The Petition asks the Court to order Respondent to reconsider when Petitioner should be assigned to a community confinement center ("CCC"). Petitioner asks in his letter that the Court grant his Petition on the basis of Fults v. Sanders, – F.3d –, 2006 WL 870745 (8th Cir. Apr. 6, 2006).

In Fults, the Eighth Circuit Court of Appeals held 28 C.F.R. §§ 570.20 and 570.21 were invalid because they conflict with 18 U.S.C. § 3621(b), which gives broad discretion to the Bureau of Prisons to determine the location of an inmate's imprisonment. 2006 WL 870745, at \*2. As Respondent has acknowledged in his Response to the Petition, Fults is dispositive of this case, and the Petition is therefore granted. Accordingly, **IT IS HEREBY ORDERED** that:

1. The Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 (Docket No. 1) is **GRANTED**;
2. The Report and Recommendation of Magistrate Judge Susan Richard Nelson

(Docket No. 9) is **ADOPTED**; and

2. Respondent is directed to reconsider immediately the date when Petitioner should be assigned to a CCC in light of the criteria set forth in 18 U.S.C. § 3621(b) and without regard to 28 C.F.R. §§ 570.20 and 570.21.

**LET JUDGMENT BE ENTERED ACCORDINGLY.**

Dated: May 4, 2006

s/ Paul A. Magnuson  
Paul A. Magnuson  
United States District Court Judge